



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	05/07/02	Bill No:	AB 1980
Tax:	Sales and Use	Author:	Bogh
Board Position:	Support	Related Bills:	SB 1826 (Morrow)

BILL SUMMARY

This bill would provide a sales and use tax exemption for the sale or purchase of handguns that are purchased by, and used in the line of duty by, law enforcement officers.

ANALYSIS

Current Law

Under the existing sales and use tax law, the sales or use tax applies to the sale or use of all tangible personal property, unless specifically exempted. Currently, the Sales and Use Tax Law does not provide any sort of exemption for firearms. Current law does provide an exemption for sales of tangible personal property to the United States, its unincorporated agencies and instrumentalities and any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States. Therefore, sales of firearms to the FBI or other federal government agencies are exempt from tax. However, this exemption does not extend to federal employees, so FBI agents who purchase their own firearms must pay sales or use tax. Current law provides that sales or use tax applies to the sale or purchase of pistols that are used by law enforcement officers in the performance of their duties.

Proposed Law

This bill would add Section 6366.7 to the Sales and Use Tax Law to provide a sales and use tax exemption for the sale or purchase of handguns that are purchased by, and used in the line of duty by, law enforcement officers. The proposed exemption would only apply to handguns authorized by the officer's employer and would be limited to the purchase of one handgun every other calendar year by an officer.

This bill would define a handgun as provided in Section 12001 of the Penal Code. This bill would also define a law enforcement officer as provided in Sections 830.1 and 830.55 of the Penal Code.

This bill would require that in order to qualify for the exemption, at the time of purchase, an officer show applicable identification and a letter from his or her employer listing the weapons authorized for use, and a statement that the officer is qualified for a tax-exempt purchase of a handgun from the list.

This bill would become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the author to provide law enforcement officers with a tax break on the purchase of their pistols.
2. **Summary of amendments.** Amendments to this bill changed the exemption to apply to handguns rather than pistols, provided a definition for the term handgun and also a definition for the term law enforcement officer. Additional amendments provided that the exemption would only apply to one handgun purchase by a law enforcement officer every other calendar year and also would require the officer to provide specific information at the time of purchase to demonstrate qualification for the exemption.
3. **Definition of handgun.** This bill provides that a handgun would be defined as provided in Section 12001 of the Penal Code. Section 12001 defines a handgun to mean a pistol, revolver, or firearm capable of being concealed upon the person. A pistol, revolver, or firearm capable of being concealed upon the person is further defined as any device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and that has a barrel less than 16 inches in length. Also included would be any device that has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.
4. **Definition of law enforcement officer.** This bill provides that a law enforcement officer would be defined as provided in Sections 830.1 and 830.55 of the Penal Code. Section 830.1 includes a county sheriff, city police officer, district police officer, marshal or deputy marshal of a municipal court, or any inspector or investigator employed in that capacity in the office of a district attorney. Section 830.55 includes correctional officers employed by a city, county, or city and county.
5. **Proposed exemption would place an added record-keeping burden on handgun retailers.** The law provides that for the purpose of the proper administration of the sales and use tax and to prevent evasion of the sales tax, it shall be presumed that all gross receipts are subject to the tax until the contrary is established. In order for handgun retailers to rebut this presumption, they would be required to establish to the satisfaction of the Board that the handguns they sell for which an exemption is claimed under the provisions of this measure are not subject to the sales or use tax. Consequently, the handgun retailer would be required to obtain and retain documentation that the handgun is actually sold to a law enforcement officer (copy of applicable identification), the law enforcement officer is qualified for a tax-exempt purchase (letter from employer), and the handgun to be purchased is approved (listing of weapons authorized for use). The added record-keeping burden placed on handgun retailers would be minor since the retailer is already required to document the transaction for the purpose of registering the handgun with the Department of Justice.
6. **Related legislation.** Senate Bill 1826 (Morrow) would provide a sales and use tax exemption for the sale and purchase of emergency equipment purchased by a local emergency service provider. The Board voted to support SB 1826.

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COST ESTIMATE

Some costs would be incurred in revising returns, regulations and publications. These costs are expected to be absorbable.

REVENUE ESTIMATE**Background, Methodology, and Assumptions**

According to law enforcement representatives, purchases of pistols for use by law enforcement officers vary from year-to-year. The annual replacement of pistols has been estimated to range from five percent per year to 20 percent per year based upon the number of active uniformed officers. Additionally, departmental policies vary depending upon size. Larger departments provide officers standard issue pistols, usually a 9 mm semiautomatic weapon, while allowing officers the option to purchase their own pistol from a list specified by the respective department; smaller departments may require the officer to purchase his or her service pistol. In cases where a pistol is issued by the department, the officer is required to return the weapon to the issuing department upon terminating employment. Pistols issued by those departments are reissued and only replaced if damaged, lost, or stolen. While pistols may vary from department-to-department, all departments provide a list that specifies the pistols that may be used in the line of duty.

In addition to a primary service handgun, law enforcement officers routinely carry a backup handgun in the line of duty. Purchases of a second handgun are made by law enforcement officers from an authorized list of handguns provided by the officers' respective department.

This bill as amended would exempt handguns purchased by law enforcement officers only who use those weapons in the line of duty. Handguns purchased by law enforcement agencies would not be exempt.

According to the California Department of Justice (DOJ), law enforcement officers may purchase handguns by filing a waiver to the 10 day waiting period. Those purchases are registered with the DOJ and totaled 6,482 handguns in 2000 and 6,189 handguns purchased in 2001.

According to the DOJ, many law enforcement officers purchase guns annually and some law enforcement officers purchase multiple weapons each year. Assuming that 80 percent of all handguns purchased using the 10-day waiver by law enforcement officers qualify under this proposal, the estimated average annual purchase of handguns is 5,068. Additionally, the cost of those handguns ranges from \$600 to \$800 each. The average purchase price is therefore estimated to be \$700. The total annual expenditures on handguns that would qualify under this proposal is estimated to be \$3.5 million (5,068 handguns x \$700).

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Revenue Summary

The revenue impact from exempting \$3.5 million in expenditures for handguns is estimated to be as follows:

	Revenue Effect
State loss (5.00%)	\$175,000
Local loss (2.25%)	\$ 78,750
Special District loss (0.67%)	\$ 23,450
Total	<u>\$277,200</u>

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